

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:09-CR-00224-DGK
)	
LATOYCE STOCKMAN,)	
)	
Defendant.)	

ORDER DENYING MOTION FOR NEW TRIAL

Pending before the Court is Defendant Latoyce Stockman’s Motion for New Trial (doc. 476) brought pursuant to Federal Rule of Criminal Procedure 33(a) and 33(b)(2).

Rule 33(a) permits the Court to “vacate any judgment and grant a new trial if the interest of justice so requires,” and Rule 33(b)(2) provides that this motion must be filed within fourteen days after the verdict, unless the motion is brought on grounds of newly discovered evidence. The Court notes the motion is timely filed and does not allege newly discovered evidence.

Defendant suggests the Court should order a new trial because the same day the jury convicted him of Conspiracy to Distribute 50 kilograms or less of Marijuana, it also found that \$30,000 in cash seized from Defendant’s bedroom should not be forfeited, and that “[b]ased upon this inconsistent finding and the lack of evidence adduced at trial,” he should receive a new trial.

As a threshold matter there is nothing inconsistent with the jury’s verdict. The jury could have, and did, find that Defendant was part of a conspiracy to distribute marijuana, but that the Government did not carry its burden with respect to proving the forfeiture count. Furthermore, there is ample evidence on the record, such as the more than a dozen intercepted phone calls

between Defendant and Rasheed Shakur, which, taken in context with the surrounding facts, supports the jury's finding beyond a reasonable doubt that Defendant conspired to distribute less than 50 kilograms of marijuana. Accordingly, ordering a new trial would not be in the interest of justice.

The motion is DENIED.

IT IS SO ORDERED.

Date: April 15, 2011

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT